

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**
1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 66082

Petitioner:

GLENN D. & VALERIE J. SLAYBAUGH,

v.

Respondent:

**ARAPAHOE COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on February 18, 2016, Debra A. Baumbach and Gregg Near presiding. Petitioners appeared pro se. Respondent was represented by Benjamin Swartzendruber, Esq. Petitioners are protesting the 2015 actual value of the subject property.

Subject property is described as follows:

**951 E Costilla Avenue
Centennial, CO 80122
Arapahoe County Schedule No. 2077-26-2-07-032**

The subject property is a single family multi-level home constructed in 1963. The home is brick and frame construction and is described as a tri-level with no basement. The structure contains 1,868 square feet of living area with a one-car built-in garage.

Petitioners are requesting an actual value of \$180,000 to \$200,000 for the subject property for tax year 2015. Respondent assigned a value of \$269,700 for the subject property for tax year 2015.

Mr. Slaybaugh presented a number of arguments relating to the Assessor's valuation approach to his property. Petitioners feel the home is misrepresented as the home has no basement and is not a 2-story design. Mr. Slaybaugh pointed to a number of superior features within the sales used by the Assessor to determine the assigned value. He noted the sales were from 486 to 1,307 square feet larger than his home; the sales contained basements ranging from 624 to 1,225 square

feet and some were finished whereas Petitioners have no basement; some had 2-car garages unlike the subject and the sales had numerous extra features such as remodeling, sprinkler systems, new windows and superior site improvements.

Mr. Slaybaugh presented an equalization argument based upon his research of the 13 “2-story” tri-level homes with lower valuations than Petitioners’. Based on this analysis, Petitioners determined that their property, assessed at \$269,700, to be overvalued by \$17,700.

Petitioners also presented five comparable sales ranging in sale price from \$180,000 to \$249,000 and in size from 1,519 to 2,132 square feet. No adjustments were applied to the sales and Petitioners pointed to an average sale price for the five transactions of \$217,600.

Petitioners are requesting a 2015 actual value in the range of the two lowest sales they presented of \$180,000 to \$200,000 for the subject property.

Respondent presented a value of \$272,000 for the subject property based on the market approach.

Respondent’s witness, Rob W. Roy, a Certified General Appraiser, considered three comparable sales ranging in sale price from \$260,000 to \$279,900. All the comparable sales were the same model as the subject and all contained 1,868 square feet of above grade living area. After adjustments were made, the sales ranged from \$247,557 to \$285,110.

Mr. Roy indicated an interior inspection was allowed on February 2, 2016. As a result of this inspection it was determined the subject was in average condition whereas the comparable sales reported were in good condition. Previously, without benefit of an on-site inspection, Mr. Roy had concluded to a value opinion of \$283,000. The condition adjustment reduced the final value opinion to \$272,000.

Respondent assigned a value of \$269,700 to the subject property for tax year 2015.

Petitioners contend the Assessor has unfairly compared their home to properties that were far superior and this has resulted in a value that is too high. They note the county records have incorrectly identified their home as a “tri-level with basement”. Petitioners also claim the subject is misrepresented as a two-story home. According to Petitioners, the Assessor has also incorrectly and arbitrarily classified too much of the living area as first floor resulting in overvaluation since, Petitioners believe, the first floor is the most valuable. Finally, these procedures have led to a value far above those applied to similar homes in the neighborhood.

Respondent agrees the property had been incorrectly classified as containing a basement and this has been changed. Respondent’s appraiser also noted the county software program does not recognize “levels” and this results in the apparent inappropriate description of portions of the home as “2-story”. Mr. Roy also testified the Assessor does not use the Marshall & Swift publication to determine value within the market approach. Mr. Roy commented on the five sales used by Petitioners and noted sales 1, 2 and 4 were disqualified as transactions between related parties or

were sales of different design than the subject. Sale 3, the same model as the subject, was not used because there was no evidence the home had been listed in the MLS and therefore did not qualify as a market transaction. Sale 5 is a different model and the transaction occurred outside of the base period.

Petitioners presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015.

The Board was not persuaded by Petitioners' equalization argument. Petitioners argued that the subject was not valued equally to other similar properties. While equalization is the goal of uniform means and methods of assessment, perfect uniformity is not required under the Colorado statutes or the constitution.

The Board can only consider an equalization argument as support for the value determined using the market approach. *Arapahoe County Bd. of Equalization v. Podoll*, 935 P.2d 14, 16 (Colo. 1997). For an equalization argument to be effective, Petitioners must also present evidence or testimony that the assigned value of the comparable used was also correctly valued using the market approach. As that evidence and testimony was not presented, the Board gave limited consideration to the equalization argument presented by Petitioners.

The Board was drawn to Respondent's appraisal. Mr. Roy noted in his testimony the limited number of comparable sales available for the "tri-level with basement" category. As he indicated, there were only four transactions of this particular model home within the 18-month study period. Out of those four transactions, Respondent selected three for the market analysis. Concluding this was an adequate number of sales, Respondent's witness applied adjustments to the three transactions in five areas (fireplace; air conditioning, deck/terrace, OPP, condition).

Citing the "time adjustment" requirement, Respondent applied an upward adjustment to each sale at a rate of 0.009/month (11%/year) up to the valuation date. All the sales were adjusted for differences in site improvements (deck/terrace) and for good condition. Sale 1 was adjusted for air conditioning, Sales 2 and 3 for unstated concessions and Sale 3 for a fireplace.

Prior to adjustment, the three comparable sales ranged from \$260,000 to \$279,900. The most current of the transactions, Sale 3, sold on May of 2014 for \$275,000. Sale 1, from July of 2013, represents the high end. After adjustments were made, the value range (e.g., the gap in price between the lowest and the highest sales) increased from \$247,557 (Sale 3) to \$285,110 (Sale 1).

The goal of the adjustment process is to narrow the differences between the comparable sales to produce a more supportable value. Respondent's analysis has widened the difference between the comparables. This has produced a rather unsettling conclusion that the adjusted value of the most current sale, is significantly lower than one 10 months older.

As the adjustment applied for the passage of time is significant in this case (ranging from 9.9% to 12% of total value) the Board has focused on this area. Assuming, *for the purposes of this argument only*, all other adjustments in Respondent's report to be correct, reason suggests that

subtracting the adjustments applied by the appraiser for everything but time would then reveal a gap in price. That gap in price should show the direction of the market. If the market for this type of home is improving, then the most current sale should be at the top and the oldest sale at the bottom of the price range.

The Board applied this process as follows:

SALE	6812 S Downing Cir	885 E Briarwood Cir	6732 S Kit Carson Cir
SALE PRICE	\$279,900	\$260,000	\$275,000
SALE DATE	07/13	06/13	05/14
ADJUSTMENTS	(\$22,500)	(\$18,000)	(\$29,900)
ADJUSTED:	\$257,400	\$242,000	\$245,100

Again, assuming, *for the purposes of this argument only*, the above grid suggests the market for this property has either improved by 1.28% from June 2013 to May 2014 or it has declined by 4.8% from July 2013 to May 2014. In either case, there is no support for time adjustments in the range of 10% to 12% per year.

The Board notes the comments in Respondent’s Exhibit A, page 35 regarding the techniques for deriving time adjustment factors and emphasizes the second technique mentioned, the use of paired sales. Since the market data for the subject property was so limited, the Board has found it inappropriate to apply the time adjustment factor determined for the larger market. The Board agrees that, in general, property values have been rising over the assessment period and therefore, of the above indications, a value of \$257,400 has been adopted.

The Board concludes the 2015 actual value of the subject property should be reduced to \$257,400.

ORDER:

Respondent is ordered to reduce the 2015 actual value of the subject property to \$257,400.

The Arapahoe County Assessor is directed to change their records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of

the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

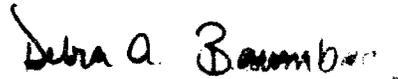
In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

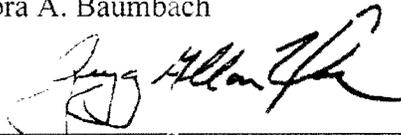
Section 39-8-108(2), C.R.S.

DATED and MAILED this 4th day of March, 2016.

BOARD OF ASSESSMENT APPEALS



Debra A. Baumbach



Gregg Near

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.


Milla Lishchuk